

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

In the Matter of:

DILIP JANA,
Plaintiff

v.

WALMART, INC.,
Defendant



Civil Action No. **4:24-cv-00698-SDJ-BD**

Honorable Bill Davis, Honorable Sean D Jordan

PLAINTIFF'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND TO DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED COMPLAINT PURSUANT TO RULE 12(b)(6)

Pro Se Plaintiff, Dr. Dilip Jana ("Plaintiff") files this Unopposed Motion for Extension of Time to Respond to Defendant's Motion to Dismiss (Dkt #22) Plaintiff's Second Amended Complaint (Dkt #13) Pursuant to Rule 12(b)(6) ("Motion") and would respectfully show the Court as follows.

I. INTRODUCTION

1. On October 19, 2024, Honorable Bill Davis ordered, "Walmart must answer or otherwise respond to Jana's second amended complaint by October 28, 2024". On October 29, 2024¹, Defendant filed its

¹ Defendant submitted Dkt #22 on October 28, 2024 at 6:47 pm CDT at Court's CM/ECF system, see Local Rule CV-5 (a)(3)(C)

Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint Pursuant to Rule 12(b)(6) [Dkt. #22] ("Motion to Dismiss"). Such motion is thirty pages in length, cited 28 Federal Cases and seeks a full dismissal of Plaintiff's Second Amended Complaint "**with no right to replead**" though **Defendant failed to Dismiss the Case at the Office of the Administrative Law Judges (OALJ)** at the US Department of Labor (**Dkt#13, ¶¶18-19 and Dkt#6 Exhibit 1**) (*emphasis added*)

2. In light of this, Plaintiff seeks a thirty days extension of time (which includes Thanksgiving holidays) to file its response to Defendant's Motion to Dismiss.

II. ARGUMENT & AUTHORITIES

3. Per Local Rule CV-7(e), Plaintiff's current deadline to respond to the Motion to Dismiss is November 12, 2024. See Local Rule CV-7(e) (14-day deadline for Response and Briefing). Plaintiff seeks a brief extension, until December 12, 2021, to file its response in opposition to the Motion to Discuss so as to allow for a full briefing of the issues raised in Defendant's Motion is dismissed. Defendant does not oppose the requested extension of time.

4. The Court has discretion to grant an extension of time for good cause. See FED. R. CIV. P. 6(b); McCarty v. Thaler, 376 F. App'x 442, 443–44 (5th Cir. 2010). Eastern District Local Rule CV-7(e) states that "[a]ny party may separately move for an order of this court lengthening or shortening the period within which a response may be filed." See Local Rule CV-7(e). In light of the length and scope of Defendant's Motion to Dismiss, along with the lack of opposition, good cause exists for the Court to grant this Motion.

5. Granting this Motion will not unreasonably delay or impact this case as this case is still in its infancy, the parties did not confer Rule 26(f) conference yet and the Court did not issue any Order Governing Proceedings yet. Plaintiff brings this Motion in good faith and not for purposes of delay but to ensure that justice may be had.

III. CONCLUSION & PRAYER

Accordingly, Plaintiff respectfully requests that the Court:

- a. grant this Motion;
- b. extend Plaintiff's deadline for responding to Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint Pursuant to Rule 12(b)(6) [Dkt. #22] to December 12, 2024;
- c. extend Defendant's deadline to file any reply in support of its Motion to Dismiss to 7 days after any response by Plaintiff is filed; and
- d. for any such further relief to which Plaintiff be justly entitled.

Dated: October 31, 2024

Respectfully Submitted,



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CERTIFICATE OF SERVICE

On October 31, 2024, a true and correct copy of the foregoing was caused to be served upon to the following through the Court's CM/ECF system:

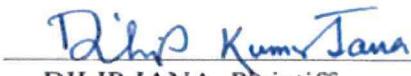
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